IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Crl.Rev.Pet.No. 1086 of 2002()

CRA.6/1997 of SESSIONS COURT, MANJERI
CC.535/1996 of JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM
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REVN. PETITIONER: APPELLANT/ACCUSED:

SAKEER, S/O. KUTTIALI,
KOORIMANNIL, KOTTILANGADI AMSOM, PERINTHALMANNA.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:
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1. **SUB INSPECTOR OF POLICE,**
   MALAPPURAM.

2. **STATE OF KERALA,**
   REP. BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRRP. NO.1086/2002

ORDER ON CMP. 5778/2002 IN CRL.RP. 1086/2002

DISMISSED

31.10.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

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K.R.UDAYABHANU, J

Crl.R.P.No.1086 of 2002

Dated this the 31st day of October, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 341 and 352 IPC and sentenced, as modified by the appellate court, to undergo simple imprisonment for one month and to pay a fine of Rs.500/- and in default, to undergo simple imprisonment for one month under Section 341 IPC and also to undergo simple imprisonment for one month and to pay a fine of Rs.500/- and in default, to undergo simple imprisonment for one month for the offence under Section 352 IPC.

2. The prosecution case is that on 27.9.1995 at about 4.30 p.m. the revision petitioner/accused wrongfully restrained PW1, a house wife, and abused and spitted on her body.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 7 and Exts. P1 to P3.

4. PW1 is the defacto complainant. PW2 her husband was along with her at the time of incident. PW3 is a person who has witnessed the incident. All the above witnesses have testified

in support of the prosecution version. It was brought out that the incident has taken place when PW1 was going to her house along with her husband and the child. PW1 had filed a complaint before the police as the accused had sent her certain letters with illicit motives and that the accused was enraged on account of the complaint filed by her. The version of PW1 is that he shouted at her that he will see that her desire to institute cases is finished and spitted on her body. The evidence of PWs' 1 to 3 corroborates that no contradictions with their previous statement has been brought out. In the circumstances and in view of the concurrent findings of the court below, I find no reason to interfere in the findings that the accused is guilty of the offences alleged. The conviction is confirmed.

5. Counsel for the revision petitioner has pleaded for leniency. It is pointed out that more than a decade has elapsed since the commencement of the proceedings and that he has been facing the prosecution so far. The counsel has sought for avoiding the term of imprisonment. In the circumstances and in view of the long pendency of the matter, I find that the sentence of imprisonment is to be avoided and hence with respect to the

offence under Section 352 IPC, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to PW1 and in default, to undergo simple imprisonment for six months. No separate sentence is awarded for the offence under Section 341 IPC. The revision petitioner/accused is granted three months' time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court, Malappuram on 31.1.2008 to receive sentence.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl